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EROS AND POLITICS IN ATHENS OF THE FOURTH CENTURY B.C.*

Within the apparently simple political system of democratic Athens, the Popular Assembly, or as the Athenian would have it: the *demos*, was the supreme governing body, understood as the total of individual citizens undertaking decisions and ruling in court¹. The assumption that all decisions were made by all citizens was implied by the notion of *demokratia* itself, but primarily by the official formulary of state documents: each resolution of the *ekklesia* was a decision of the people and the Council, while such resolutions were necessary not only in matters of state such as making peace or alliances, but also in ordinary executive cases such as dispatching envoys (appointed by the Assembly), nominating a *strategos* to the command of a military expedition, or granting citizenship to a foreigner.

It is impossible to ascertain precisely the population of Athens in the fifth and fourth centuries, but various calculations range between forty and sixty thousand. It is probable, that in the fourth century in comparison with the times of Pericles the population decreased. But it is much easier to estimate the attendance of the Popular Assembly on the basis of the area of the Pnyx Hill, which provided room for the meetings. In the fourth century, after the reconstruction of the hill's plateau, this number is estimated at 13,800 (in the fifth century it could hold considerably less people; somewhere between 6,000–8,000)². Nevertheless, we have firm evidence that considerably less people actually attended the gath-

* Translated by Jacek Soszyński. The first version of this paper has been published in Polish in: *Kuchnia władzy. Księga pamiątkowa z okazji 70-tej rocznicy urodzin Andrzeja Garlickiego*, red. W. Borodziej, J. Kochanowski, Warszawa 2005, 162–177. All dates are BC.

¹ For mutual relations between the authority of the Popular Assembly and the courts of law cf. M. Ostwald, *From Popular Sovereignty to the Sovereignty of Law. Law, Society and Politics in Fifth-Century Athens*, Berkeley 1986, and the polemic text by M. H. Hansen, *Demos, Ekklesia and Dikasterion. A Reply to Martin Ostwald and Joshah Ober*, CM, 40, 1989, 101–106 (reprinted in M. H. Hansen, *The Athenian Ecclesia II. A Collection of Articles 1983–1989*, Copenhagen 1989, 213–218).

² Cf. M. H. Hansen, *How Many Athenians Attended the Ecclesia?*, GRBS, 17, 1976, 115–134 (*The Athenian Ecclesia. A Collection of Articles 1976–1983*, Copenhagen 1983, 1–20).

ering, and that a certain *quorum* was required. The author of *Athenaion politeia* (ascribed to Aristotle) states it directly, and maintains that the introduction of payment (*mistos ekklesiastikos*) was caused by the low attendance of the Pnyx. Even more obvious evidence of the actual state of affairs at the Assembly was the law mentioned by later authors, which demanded a *quorum* of at least 6,000 participants for settling personal matters (all *ep'andri* decisions)³. One should also bear in mind that just as many votes were necessary in the fifth century to validate an ostracism, and that the same number of citizens chosen by drawing lots was required for the judging panel (*heliaia*), from which, also by way of drawing lots, the tribunals were formed. Why 6,000 and not a different number is hard to explain. Nevertheless, it was not considered a representation, but assumed to be the whole Athenian *demos*. Perhaps the actual number of the participants at the meetings oscillated around this level and a larger attendance could hardly be hoped for. It goes without saying that townfolk formed the majority among this group of citizens. Inhabitants of countryside demes, sometimes as distant as 30 or 40 kilometres away from the city, faced considerable obstacles, if they wanted to participate in the Assembly, which most probably started at dawn, and sometimes lasted for the whole day. But most probably also those who lived in Athens, would not always come to the meetings: for the people who earned their living themselves, a day spent at the *Ekklesia* meant the loss of their daily income.

The fact that Popular Assembly was attended only by a certain number of citizens was decisive for the specific character of Athenian democracy and for the mechanisms of political life, including above all the course in which decisions were made.

If we assume that the number of citizens participating in the Assembly remained approximately at a constant level, then the conclusion is evident: there existed a more or less stable group of politically active Athenians, who decided for the whole community. During the fourth century there were four meetings regularly scheduled during a single prytany (tenth part of a year – the term in office of the prytans, i.e. the representatives of each tribe in the *boule*). Thus, the citizens who attended the Popular Assembly, constantly preoccupied with politics and acquiring considerable experience in that field, were becoming *sui generis* professionals with more familiarity as to the matters of state than the members of the *boule* or the people holding offices: since members of the Council were selected by lot and a citizen could become one only twice in his lifetime, there certainly must have been instances of members stemming from far away demes, who had never previously attended the *Ekklesia*. Offices were treated similarly; in particular these, the incumbents of which were selected by lot. The fact that official posts

³ Cf. Hansen, *How Many Athenians...*, 124–130.

were frequently in the hands of unknown people, without political expertise and experience, enhanced the importance of the Popular Assembly, or more precisely of the group of citizens, however wide, who were active in the political space. These same active citizens also manned the courts of law, once again acquiring experience in public matters. Little wonder then that in the Athenian system, unlike the Roman Republic, officials (*archai*) had no legal initiative upon the account of their office. The right to initiate motions – in practice bills – theoretically was the prerogative of every citizen-participant of the Assembly. In accord with the Athenian terminology it was everyone „who wishes” (*ho boulomenos*) and applies after the exclamation of the formula by the presiding prytaneus (at the same time president of the prytans in office), who in this manner would open discussions. Naturally, not everyone present on the Pnyx wanted to speak or forward motions. It seems that in fourth-century Athens there existed a group of citizens which constantly initiated motions. Modern scholars usually label them as *boulomenoi* or *rhetores* – the term being borrowed from the language of the politicians of this period, although we are not certain, whether these terms are really synonyms. The latter appellation is used with reference to the speakers at the Assembly, while any citizen could have been the author of a motion; sometimes politicians for one reason or another preferred to conceal their authorship and substituted a neutral person in their stead⁴. The usual motive was quite obvious: each law passed by the Assembly, or even its proposition forwarded to the Council, could be subject to the public action (*graphe paranomon*); and it was only the author of the motion which was responsible.

In this way Athenian democracy established an important mechanism of political decision-making, which pivoted on the phenomenon, that all state affairs were managed by citizens who were not burdened with official functions, and therefore were out of control. A person holding a public office could be deprived of his function (what happened to Pericles), and after his yearly term came to an end, he would stand before a special commission, and during the period of his reporting, he could be sued for misconduct. Such procedures did not apply to politicians of the *boulomenos* or *rhetor* type. But while the *bouleomenos* could still be faced with the judicial procedure mentioned above, the *rhetor* had nothing to worry about.

The other characteristic feature of the Athenian system was the functioning of various informal connections. The *boulomenos* could be just a figure-head acting for the real politician, hence the *rhetor* had to have in his entourage individuals who were appropriate for the role, and ready to play it.

⁴ Cf. M. H. Hansen, *The Athenian Politicians 403–322 BC*, GRBS, 24, 1983, 33–55 (*The Athenian Ecclesia II*, 1–23); Idem, *Initiative und Entscheidung. Überlegungen über die Gewaltenteilung im Aten des 4. Jahrhunderts*, Konstanz 1983, 19–24.

Finally, with the *rhetores* free of concern over possible punishment, a way had to be worked out for restraining their influence and initiatives, and of their potential elimination from public life. In the fifth century ostracism played that role. Interesting, as it may seem, in the fourth century ostracism was never used, probably because it was replaced by the court trial – the ground for political strife introduced already in the previous century. Apart from the mentioned above *graphe paranomon* procedure, there was another type of special trial called *eisangelia*, which permitted for accusing any politician before the Popular Assembly. Actually, even the ordinary public trial (*graphe*) for abuse of the law (chiefly corruption) could be set in motion against any citizen. And precisely these kind of accusations became instruments of political wrestling in the fifth century; their victims being quite often politicians who held public offices⁵. But there again the participants of such political trials were the same people: the judges and the defendants were well acquainted with each other at the Popular Assembly; their conduct in the courtroom was also no surprise: political cases were settled by tribunals numbering from 500 to 1,500, perhaps up to 2,000 judges⁶. The trials were usually attended by a numerous public, consisting not only of citizens. The politician who made his case in front of the judges cared also for the popularity among the public. As a rule both the plaintiffs and the defendants were politicians; but if they were mere figure-heads standing in place for the real adversaries, the judges and the public were well aware of the genuine players.

A trial was a contest between two citizens, and it was no incident that the term *agon* applied here. The word *agon* primarily refers to athletic games, but also to any kind of competition or rivalry. The judging body did not seek for the truth itself. It was the responsibility of the sides (in public or political cases just as well as in private proceedings,) to collect the evidence, even written testimonies or call the witnesses before court. The sole responsibility of the judges was to decide in favour of one side or the other. The public attended court trials just as any other kind of *agones*: to see, who turned out to be the winner.

The court spectacle lasted for the whole day, but to avoid the difference in the length of daylight between summer and winter, a special unit of court-day was established, equal to the duration of the shortest day (of the *Poseideon* month – our December), which in Athens meant c. 9 hours. A water clock counted the time, dividing the day into

⁵ Cf. R. Kulesza, *Przekupstwo i sprzeniewierzenie w systemie prawa i procedurze sądowej Aten V i IV wieku p.n.e.*, „Przegląd Historyczny”, 77, 1986, 1–23; Idem, *Procesy polityczne w Atenach V i IV w. p.n.e.*, [in] *Świat antyczny. Stosunki społeczne, ideologia i polityka, religia. Studia ofiarowane Izie Biezuńskiej-Malowist w pięćdziesięciolecie pracy naukowej przez Jej uczniów*, Warszawa 1988, 203–231.

⁶ Aristotle, *Constitution of the Athenians*, 68, 1. Cf. also M. H. Hansen, *The Athenian Democracy in the Age of Demosthenes: Structure, Principles, and Ideology*, Oxford 1991, 194.

three parts. One part was in the disposition of the prosecutor, who delivered his speech first. Another part belonged to the defendant. The remaining time was devoted to the morning selection (by lot) of the judges, their discussion later on ending with the vote, and, in cases in which the penalty was not specified (*agon timetos*), time was reserved for a final short exposition of the accused, in which he could propose his punishment.

The three-hour-long appearance before court was therefore a major rhetoric performance, but above all an occasion to politically deal with one's adversary and to present one's own point of view. Success or defeat in the courtroom frequently decided upon further career.

We have knowledge of various Athenian trials, which dealt with accusations of treason, corruption, or initiating illegal motions. But there is one action that draws particular attention. The extant speech of the prosecutor of this trial is a prime source in matters of sexual ethics in fourth-century Athens, because it dwells on the intimate life of the defendant. In 346 or 345 the court heard the case brought by Aeschines, a well known orator and politician, against Timarchos. Naturally, politics permeated the whole procedure. In fact there were two political undercurrents: relations with Macedon, i.e. the examination of the 346 embassy to King Philip, and the clash between the two leaders and two factions wishing to dominate the political scene. Timarchos was only a pretext here; Aeschines really aimed at Demosthenes. It seems that this latter issue was the more important one.

Born in 384 or 383, Demosthenes, at the time of the trial was in his late thirties and well known in Athens. His proper career began with private law-suits against his legal guardians (Demosthenes' father, also called Demosthenes, died as early as 376 or 375), who supposedly squandered his inheritance. The first trial, staged in 364 or 363, brought him fame as an orator and admiration for the talent he displayed: people held in high regard the twenty-year-old youth, who stood his rights in court. Demosthenes stemmed from a well-off family – the milieu in Athens traditionally engaged in politics. Thanks to his resources he received proper education and soon himself became a teacher of rhetoric and a professional writer of court speeches (*logographos*), which he produced for his less talented compatriots entangled in trials. His political activity began in 360 or 359, when he became a trierarch (commander of a trireme naval military vessel). This position once again is testimony of his material prosperity, because such posts belonged to the liturgies reserved for opulent citizens⁷.

In the 350s the most influential politician in Athens was Euboulos. From 354 through 350, nominally, he was responsible for the public funds for organising performances (*theorikon*); in practice he controlled all state finances. Demosthenes was among his political friends, but probably far from being his closest collabo-

⁷ Cf. R. Sealey, *Demosthenes and His Time: a Study in Defeat*, New York–Oxford, 1993, 96–101.

rator. Nevertheless, how much Demosthenes had to reckon with his wishes is demonstrated by the Meidias affair (dated 348). During City Dionysia in this year Demosthenes was *choregos*. In the theatre Meidias punched him, or just slapped his face. Demosthenes apparently intended to bring Meidias to court in a great political trial for violating the peace and order of a public feast. He prepared the famous speech (which he later published in the collection of his speeches), but declined from legal action, most probably on the advice of Euboulos, with whom the perpetrator was closely connected, or persuaded by the compensation paid by Meidias, what in Athenian circumstances verged on bribery⁸. Demosthenes, still young at the time, although already renowned as orator, preferred in his career to rely on Eubolos and his political friends.

More or less at that time, the elite milieu of the well-to-do politically experienced citizens stemming from proper families was joined by a new personality. Aeschines was a typical *homo novus*. Born in 391 or 390, hence slightly older than Demosthenes, he couldn't boast about his distinguished background. His family originated from a country deme, and was rather humble. His father was supposed to be a schoolteacher, whom the young Aeschines helped in his professional duties. With time the future politician started to earn his living as a petty clerk (scribe or office attendant, but not an official selected by lot or by election), later to become an actor. But the real change in his life was brought about by an advantageous marriage. His father-in-law, Philodemos, was a man of property and an influential member of the Paiania deme (the same from which came Demosthenes). Because in Athens daughters always received dowries, we may assume that in this way Aeschines finally acquired the means to stop working for living. Philodemos also had political affiliations. Being a wealthy person he was obliged to fulfil liturgies, including trierarchy. As a naval commander he had to have contacts with politicians, at least the generals. But Aeschines found a much more influential and powerful protector.

In 348 he took part in a campaign on Euboia, where the Athenians intervened on behalf of Ploutarchos, the tyrant of Eretria who waged war with Kallias of Chalkis. The expedition was led by Phokion (402–318), an outstanding Athenian general and politician. Aeschines distinguished himself during that campaign and made a favourable impression on Phokion. This new friendship boosted his political career. The commander sent him and Temenides as envoys from the camp on Euboia to Athens with the news of the victory⁹. There is little doubt as to the fact, that from then on Aeschines was considered Phokion's man; and Phokion was counted among the politicians sympathising with Macedon¹⁰.

⁸ *Ibidem*, 117.

⁹ Aeschines, *On the Embassy*, 169.

¹⁰ Cf. E. M. Harris, *Aeschines and Athenian Politics*, New York–Oxford 1995, 21–40.

Since Demosthenes suddenly decided to oppose vigorously the settlement with Philip of Macedon, enmity between him and Aeschines was inevitable. Most probably in 352 or 351¹¹ Demosthenes delivered his first speech against Macedon (the so called *First Philippic*). But not further than just a few years later it seemed that the two were collaborating in harmony: both stood for peace with Philip in 346 and participated in the two embassies to the Macedonian ruler.

The latter of the two delegations, the one which went to Macedon in order to receive Philip's oath on the previously negotiated and accepted by the Assembly peace treaty (the so called Peace of Philokrates), was the one that mattered. Before the embassy was despatched, Philip managed to defeat the Thracian ruler Kersebleptes, who wanted to ally himself with Athens, but was not part of the previously negotiated peace. After the return of the envoys, Aeschines presented the policies of Philip in favourable terms, and all of a sudden it turned out that Demosthenes and himself represented completely different points of view as to the Macedonian issue. Aeschines' eyes were set on Thebes; at that time on hostile terms with his city. He was of the opinion that Athens should support Philip, hoping that such an alliance would weaken the common enemy. Demosthenes favoured reconciliation with Thebes and measures aimed at checking the growing power of the Macedonian ruler to prevent the possibility of his hegemony in Greece. Indeed, both politicians rivalled who served Athens better – in the language of the times: who „advised the people” better.

The envoys, like all citizens who acted as public officials or fulfilled state functions, were required to submit an account in front of a special commission of the *boule*, so that any citizen could lodge a court complaint of corruption or inappropriate handling of the matter. Demosthenes submitted his report, but also intended to accuse Aeschines. But at that moment he didn't want to engage himself openly, so he used to this end Timarchos, one of his adherents. Timarchos announced that he was going to take public action (*graphe*) against Aeschines, who replied in kind with a counter-plea (*antigraphé*) against Timarchos. The court procedures were held at the end of 346 or the beginning of 345. The trial turned into a fascinating political spectacle, in which little was said on matters of state, while the sexual life of the defendant became the chief point of interest.

Although Timarchos was a politically active citizen, he was not an influential personality, moreover, he did not take part in the embassy to Macedon, he held no public office, nor did he forward any motion – hence he could not be prosecuted for any concrete activity. But there remained one other way: his citizen rights could be questioned. Unfortunately, there was no possibility of putting in doubt the legality of his birth (citizenship resulted from legal marriage), nor could the

¹¹ Cf. Sealey, *op. cit.*, 132.

origins of his parents be questioned. In 361 or 360, when Timarchos became member of the Council of 500, he successfully underwent scrutiny of his citizen status and rights (*dokimasia*). Nevertheless, certain circumstances could result in partial loss of some of citizen rights (*time*) even without the necessity of a previous court sentence, which was required in the case of full *atimia*, connected with loss of possessions and banishment. Partial *atimia* applied in particular to persons indebted to the state, until the liability was solved. All those, who were included in the *atimoi* category had no right to speak at the Assembly, forward petitions to the Council, initiate motions, and prosecute in public trials. A politician active at the *ekklesia* and the court tribunals could face the *dokimasia ton rhetoron* procedure („investigation of orators”), which consisted in lodging a complaint with the tribunal. It was up to the judges then, whether the given citizen actually had the right to participate in matters of state.

It was precisely this procedure, which Aeschines set in motion, asserting that Timarchos, being *atimos* by law, has no right to active participation at the Assembly. It followed naturally, that Timarchos had no authority to bring Aeschines to court. By this measure Aeschines not only attempted to prevent the possibility of being tried himself, but endeavoured to permanently eliminate Demosthenes’ adherent, who could be used again in this capacity, leaving his patron out of immediate sight.

The accusation was calling upon laws, allegedly from the times of Solon, which ruled automatic *atimia* with respect to citizens prostituting themselves¹². Of course such accusations applied rather to the younger years of a citizen (in fourth-century Athens one attained full citizen rights at twenty, after a two-year *ephebeia*). In this way one was always responsible for his juvenile errors.

Prostitution in fourth-century Athens defied easy solutions. In Aeschines’ days it was a familiar phenomenon; boy prostitution included. Usually, prostitutes employed in brothels recruited themselves from the foreign element (metics) or slaves. For a variety of reasons one could hardly say such a thing about an Athenian boy; and certainly not in the context of a brothel. Aeschines provides only one instance of a male prostitute, who could be suspected of Athenian citizenship. A certain Diophantos, known as the orphan, who brought his client before the archon for not paying for his services; the archon by law was obliged to care for orphaned children¹³. Other prostitutes mentioned by name in Aeschines’ speech were most probably metics – we have no indication of their citizen status.

But according to Aeschines every incident, when a boy, being a lover (*eromenos*) of an older man (*erastes*), drew material profit from this relationship, was prostitution. Here problems arose. It was difficult to prove that Timarchos received payment – no

¹² For a legal analysis cf. K. Dover, *Greek Homosexuality*, Cambridge 1989, 19–109.

¹³ Aeschines, *Against Timarchos*, 158.

former client of his (if there were any) would confirm before court the testimonies prepared to this end by Aeschines; who himself was well aware of it and stated it several times. Public discussing of intimate lives of citizens was risky. Aeschines, well aware of treading quicksand, in mentioning Timarchos' first lover, a certain Misgolas (who reportedly took the boy into keeping), emphasised that he was making no attempt to vilify such behaviour and considered Misgolas *aner kalos kai agathos*.

The situation of the prosecutor was delicate indeed. For three hours he spoke in front of the tribunal, which consisted probably of 1,500 citizens and a throng of public. More than one of the present Athenians could have been in the situation of the defendant, or Misgolas, or one of Timarchos' other lovers. Although model Greek *paidēastia* assumed unselfishness on both sides (*erastes* was supposed to care for the bringing up of the boy, while *eromenos* allow his patron sexual pleasures out of gratitude – only because of *charis*), we can safely assume, that reality did not always live up to the ideal. Gifts in such relationships, sometimes quite luxurious: valuable artistic vases, animals hunted down or caught alive, were absolutely acceptable¹⁴. Aeschines was not able to bring forward any evidence to substantiate his accusations: the witnesses failed to appear and confirm their testimonies (just as he predicted). He admitted himself, that there was no written agreement between Misgolas and Timarchos, although such cases couldn't have been unknown¹⁵. His situation here was particularly tricky for one more reason: he couldn't afford the listeners to form the impression that the only basis of the accusation was the fact that Timarchos as a young man was considered attractive and that he himself was ill disposed towards *paidēastia*. Such suspicions would harm his case. Aeschines predicted that the defence (Demosthenes was to appear as *synegoros*, i.e. the fellow-advocate of the defendant) would try to impute to the accuser that the disapproval of Timarchos' erotic customs is merely proof of the lack of manners and higher culture (*paideia*), an indispensable element of which was *paidēastia*. Thus Aeschines stated that he himself was fond of affairs with boys and admitted to be the author of erotic poems, circulating under his name; although he stressed that the texts were corrupted. More than once he reminded the public that such relationships were characteristic of cultivated people and that the jurors present were well aware of that¹⁶. He referred also to the ideals of the Greek and Athenian tradition, bringing forward the instances of Achilles and Patroklos, and the Athenian tyrannicides: Harmodios and Aristogeiton. This

¹⁴ Cf. G. Koch-Harnack, *Knabenliebe und Tiergeschenke. Ihre Bedeutung in pädagogischem Erziehungssystem Athens*, Berlin 1983, *passim*; Eadem, *Erotische Symbole. Lotosblüte und gemeinsamer Mantel auf antiken Vasen*, Berlin 1989.

¹⁵ Aeschines mentions it (*Against Timarchos*, 160). Although written agreements in such matters were improbable, a similar case is attested by Lysias (*Against Simon*, in particular paragraphs 22–26).

¹⁶ Cf. Aeschines, *Against Timarchos*, 132–137.

latter example is particularly telling. All Athenians who frequently participated in the Assembly and the tribunals, especially those who inhabited the city, every day would see on the agora the monument of the two young men, both treated as heroes and objects of state cult¹⁷. Their popularity was tremendous, although the assassination of Hipparch, brother of the tyrant Hippias, which they committed in 514, had little immediate consequences, and that the Athenians had to wait for liberation (with the help of Sparta) for another four years. All our sources¹⁸ agree that the motives of the killing were strictly personal. Hipparch, either offended, or too vigorously attempted to seduce Harmodios. Seeing that, Harmodios' *erastes*, Aristogeiton, came to his lover's aid. And precisely that feature of the story was responsible for the popularity of the heroes in Athens: it was not the political aspect of the assassination (the two probably had no political intentions), but their mutual fidelity and care for honour. At the same time it was easy to associate mentally the romantic feature with common benefit of the citizens: Hipparch could easily be pictured as a co-ruler, and his death as the beginning of the liberation of Athens. For Aeschines such love was honourable and beneficial for the society. Speaking of the relationship between Achilles and Patroklos (considered erotic at least from the times of Aeschylus), once again he emphasized fidelity and constancy of their sentiments. In this way he not only aimed at accusing Timarchos of prostitution, but at demonstrating that there was something wrong with his whole erotic life. Because, for the reasons stated above, Aeschines had no possibility to prove that Timarchos actually did prostitute himself in his youth, but he wouldn't limit his accusations to the early years of the defendant's life. If he wanted the jurors to find Timarchos guilty, he had to arouse aversion among them towards the whole private life of the accused politician, as improper and contrary to generally accepted norms. So it was not homosexuality alone, which was in question, albeit all these affairs were presented in a negative light. Aeschines talked about the Timarchos' relationship with a certain Pittalakos, a public slave. This took place during the time when Timarchos was already grown up, so it was hard to consider it an instance of boyish prostitution. The misdemeanour lay on the one hand in a degrading for a citizen affair with a slave, while on the other, in unfaithfulness to his former lover Misgolas, and later on to Pittalakos, whom Timarchos left for Hegesandros, who in turn happened to be an embezzler of public money and supposedly guilty of comparable shameful deeds as the other¹⁹. According to Aeschines, Timarchos displayed similar, highly inappropriate, behaviour also with respect to women. While acting as an official (probably *archon*, the Athenian supervisor) on the allied (in practice subservient) island of Andros, he seduced wives of Andronian

¹⁷ Cf. Demosthenes, XIX 280 and Aristotle, *Constitution of the Athenians*, 58, 1.

¹⁸ Herod. V 62 and VI 123; Thuc. VI 54; Aristotle, *Constitution of the Athenians*, 28, 2–6.

¹⁹ Aeschines, *Against Timarchos*, 54–65.

citizens²⁰. In the eyes of the Athenians such conduct was much more criminal than the inappropriate homosexual affairs of a boy, even if those were intended to bring profit, in particular when Aeschines suggested not seduction, but rape. One must also not forget that Athenian law permitted the killing of the adulterer by the cheated husband, if he caught the perpetrator with his wife *in flagranti*; such homicide was called „lawful” (*kata nomous*)²¹.

Since Aeschines could present no evidence, he constantly referred to Timarchos' bad reputation, allegedly obvious to everybody; he went as far as to call upon the goddess Feme, not to listen to whom would be impiety. Once again it was not Timarchos' reputation as a youth that was in question. Timarchos' age is not completely clear. In 361 or 360 he was a member of the Council of 500 for the first time. Thus, in accord with the views held by contemporary historical research, he should be at least thirty at the time, and forty-five when the trial took place. The problem arises, when we consider the unequivocal statement of Aeschines, that Timarchos was younger than Misgolas, who was forty-five in the year 346/345. This is proof that there was no rule placing the minimum age at thirty for *boule*-members²²; nevertheless, he had to be at least twenty then (it is more probable that he was older, because it is difficult to assume that a candidate of so young an age would have been proposed, when generally in Greek culture thirty was considered the age of maturity for men), and nearing forty during the trial. Meanwhile Aeschines, in order to remind everyone of Timarchos' bad reputation, recalled an interesting incident that took place shortly before the trial (*at the very Assembly-meeting at which I proclaimed this legal process*)²³. The citizens gathered all burst into laughter when Autolykos, a member of the Areopagos, during a debate on city-order matters, remarked: *on the subject of that deserted spot and the place on the Pnyx, you should not be surprised, Athenians, if Timarchos is more experienced than the Council of Areopagos*. This was an allusion to the places, where *pornoi* (boy-prostitutes) got together with their clients. Doubtless, Timarchos, at his age, could not engage into such services, but he could be the customer; and likewise it was understood by the audience of the trial. A little further Aeschines claimed that the audience reacted similarly to the mention by Autolykos of „building-sites” and „cisterns”, once again understood as allusions to Timarchos. This rather vulgar allusion referred to coarse words, which brought to mind the techniques of homosexual intercourse (fellatio and anal penetration) and were considered indecent. Thus Aeschines, not even trying to conceal it, abandoned

²⁰ *Ibidem*, 107.

²¹ Cf. Aristotle, *Constitution of the Athenians*, 57, 3.

²² Cf. W. Lengauer, *La qualification d'âge pour les membres de la boule athénienne*, „Antiquitas”, 26, 2002, 43–50.

²³ Aeschines, *Against Timarchos*, 81–84.

the proper matter of the trial to characterise the intimate pleasures and conduct of his adversary. He counted on the sympathy of the jurors (let us repeat once more: the same persons present at the Assembly-meeting, when the recalled incident took place), and reminded them constantly of the ill reputation of the defendant. And it seems, that they were well aware of the „popularity” of Timarchos as a boy, and of his conduct as a grown-up. We can assume that on the basis of the mentions and allusions to the defending speech, unfortunately not preserved and presumably not known in antiquity, but anyway known to and cited by Aeschines, because Demosthenes prepared it well before the trial and allowed people to look into it. The defence replied only to the accusation of prostitution (what Aeschines, as we could see, had no possibility of substantiating). But Demosthenes had no intention of denying that Timarchos was prone to romantic affairs and concealing them. Hence, the conflict was not about erotic affairs, but concerned the assessment of such behaviour by the jurors: was it decent or not.

Aeschines went as far as to address similar allusions of indecent behaviour to Demosthenes. He referred to the well-known nickname, given Demosthenes by his nanny, which dwelt on his speech impediment. *Battalos* meant „Stammerer”, but also had a second jocular or vulgar connotation denoting a lecher, or at least referring to the sexual sphere²⁴. According to antique commentators it applied to a man described as *kinaidos*. This expression in turn one can understand as „effeminate”, i.e. somebody who acts in a manner unfitting for a man. It is no incident that Aeschines portrays Demosthenes’ clothing as inappropriate for a man (*those fancy little cloaks and those delicate little tunics*). But *kinaidos* did not refer to homosexuality²⁵; let us just evoke here the instance of Paris, who is the literary symbol of a womaniser and himself acts like a woman. Aeschines’ argument was that a decent citizen can and should have relationships both with women and boys, but he must differentiate his behaviour in accord with the situation and the person he is dealing with, always retaining the domineering and demanding attitude. Womanising (on Andros Timarchos did in fact seduce women) is equally indecent, as engaging oneself in numerous homosexual affairs, because in both instances the citizen is soliciting favours from the other side. In doing so the citizen ceases to be a decent member of the *polis* community, and can let his comrades down as a hoplite, because he is interested in the erotic sphere only – this again Aeschines states plainly in reference to Demosthenes, although in another speech²⁶.

Aeschines won the lawsuit. Timarchos was ruled guilty (and, according to ancient commentators, committed suicide). But one cannot help feeling that he

²⁴ *Ibidem*, 126–131.

²⁵ Cf. J. J. Winkler, *The Constraints of Desire: the Anthropology of Sex and Gender in Ancient Greece*, New York–London 1990, 45–47, 50–54.

²⁶ Aeschines, *On the Embassy*, 150–151.

lost due to his exuberant erotic life. In result of this trial Aeschines strengthened his political position, naturally, at the cost of Demosthenes' camp. The latter attempted to turn the tide by accusing Aeschines of acting against the mission of the embassy he was charged with, but this case (the trial was conducted only in 343) went also in favour of Aeschines. And so perhaps, if Timarchos' sexual conduct had been different, the political situation in Athens would have taken a different turn, also with respect to Macedon.